

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

TRISH ROTHWELL,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. 4:23-CV-00116-
	§	SDJ-AGD
MARSHALL CREEK RANCH, LLC	§	
et al.,	§	
	§	
Defendants.	§	

**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the Report and Recommendation of the United States Magistrate Judge (“Report”), this matter having been referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. On February 11, 2025, the Report of the Magistrate Judge, (Dkt. #41), was entered containing proposed findings of fact and recommendation that Defendants’ Motion for Summary Judgment and Brief in Support (Dkt. #27) be granted. The court further recommended that Plaintiff’s case be dismissed with prejudice.

On March 5, 2025, Plaintiff filed timely objections to the Report (Dkt. #48). The Court has conducted a de novo review of Plaintiff’s objections (Dkt. #48) and the portions of the Report to which Plaintiff specifically objects. Having done so, the Court is of the opinion that the findings of the Magistrate Judge are correct and adopts the Magistrate Judge’s Report as the findings of the Court.

The Court recognizes, however, a specific objection raised by Plaintiff; namely, that “a general release such as the one employed by Defendants cannot waive away claims for relief from the Defendants’ gross negligence.” (Dkt. #48 at p. 8). Plaintiff’s objection states that she “has maintained claims of negligence, gross negligence, and premises liability” throughout the pendency of the lawsuit (Dkt. #48 at p. 8). However, in reviewing the relevant pleadings, Plaintiff’s assertion is incorrect. A claim for gross negligence does not appear in Plaintiff’s Amended Complaint (Dkt. #18). As a result, Defendants’ Motion for Summary Judgment does not address gross negligence, nor does the Magistrate Judge’s Report. Having not asserted a claim for gross negligence, the Magistrate Judge was not required to consider such arguments.

It is therefore **ORDERED** that Defendants’ Motion for Summary Judgment and Brief in Support (Dkt. #27) is **GRANTED**, and Plaintiff’s case is **DISMISSED WITH PREJUDICE**.

It is further **ORDERED** that any request for relief not addressed by the Report (Dkt. #41) is **DENIED as moot**.

So ORDERED and SIGNED this 31st day of March, 2025.



SEAN D. JORDAN
UNITED STATES DISTRICT JUDGE